

THE HON'BLE MR JUSTICE V.V.S.RAO

-
WRIT PETITION No.17759 of 2006

-
25.8.2006

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Between:

Darshan Kaur, W/o.Charan Singh Kashmiri

... Petitioner

AND

The Deputy Collector and Mandal Revenue Officer,
Rajendranagar Mandal, Ranga Reddy District
And others

... Respondents

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ORDER:

The petitioner herein is second defendant in O.S.No.54 of 2006 on the file of the Court of the Additional Junior Civil Judge, Ranga Reddy District. The suit was filed by the third respondent against the petitioner herein and one Shyam Singh for perpetual injunction restraining the defendants therein from interfering with possession and enjoyment of the land admeasuring 42 Sq.yards in survey No.17/EE situated at Sogbowli Village H/o.Upparpally Village of Rajendranagar Mandal in Ranga Reddy District. The third respondent also filed I.A.No.89 of 2006 for *ad interim* injunction. The petitioner filed a counter affidavit opposing grant of injunction *inter alia* contending that the suit schedule property in survey No.17/EE claimed by the third respondent forms part of the land belonging to the petitioner in survey No.17/E. She also filed another I.A., for appointment of Advocate Commissioner for conducting survey and demarcation of land in survey Nos.17/E and 17/EE. The said petition was dismissed. The I.A.No.89 of 2006 filed by the third respondent for *ad interim* injunction was allowed granting temporary injunction placing reliance on the certificate issued by the second respondent on 18.11.2005 to the effect that house bearing No.2-4-66/1 admeasuring 42 Sq.yards belongs to the third respondent. Against the said order, the petitioner filed

C.M.A.No.158 of 2005 on the file of the Court of the II Additional District Judge, Ranga Reddy District, which is pending. In that background, the petitioner cannot file the present writ petition challenging the certificate vide Lr.No.B/8738/2005 dated 18.11.2005 issued by the Mandal Revenue Officer, Rajendranagar Mandal (MRO), praying this Court to declare the same as illegal and arbitrary.

Learned Counsel for the petitioner contends that when the suit is pending before the Civil Court, the second respondent ought not to have issued the impugned certificate. Secondly, he would urge that there is no such procedure or standing order enabling the second respondent to issue certificate which is challenged in the writ petition and, therefore, the same is liable to be set aside. The learned Assistant Government Pleader for Revenue (General) opposed the writ petition contending that such writ petition is not maintainable.

The suit was filed in 2006 presumably based on the certificate issued by the second respondent. When a suit is filed for injunction, it is for the plaintiff to prove that as on the date of filing of the suit, he/she is in possession of the suit schedule property. For this reason, the third respondent appears to have obtained certificate that house bearing No.2-4-66/1 belonging to him comes in survey No.17/EE. The trial Court placed reliance on such certificate and granted injunction. At that stage, invalidating the certificate is not maintainable. It is always open to the petitioner to question the evidentiary value or admissibility of such certificate issued by the MRO before the Civil Court itself. The petitioner has already filed C.M.A., before the District Court against the order of injunction and he can raise all objections before the appellate Court.

The writ petition is misconceived and is accordingly dismissed.

(V.V.S.RAO, J)

August 25, 2006.

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